

Service Date: July 8, 1998

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of Kitty Keller,)	TRANSPORTATION DIVISION
dba Big Sky Paramedics,)	
Great Falls, Montana, Application)	DOCKET NO. T-97.113.PCN
for a Montana Intrastate Certificate)	
of Public Convenience and Necessity)	ORDER NO. 6451

PROPOSED ORDER

APPEARANCES

FOR THE APPLICANT:

Kendall Neff (*Pro se at the hearing*), Big Sky Paramedics, P.O. 2003, Great Falls, Montana 59403; John C. Doubek, Esq. (*briefing*), Small, Hatch, Doubek & Pyfer, 307 North Jackson, P.O. Box 236, Helena, Montana 59624-0236.

FOR THE PROTESTANT:

David L. Jackson, Esq., Jackson, Murdo, Grant & McFarland, P.C., 203 N. Ewing Street, Helena, Montana 59601, representing Protestant Titan Enterprises, Inc., dba Diamond Wheelchair Van.

BEFORE:

BOB ANDERSON, Commissioner and Hearing Examiner.

COMMISSION STAFF:

Denise Peterson, Staff Attorney, and Wayne Budt, Administrator, Transportation Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

The Hearing Examiner, having taken evidence and being fully advised in the premises, issues the following Proposed Findings of Fact, Conclusions of Law, and Order pursuant to Section 2-4-621, MCA.

BACKGROUND

1. On November 20, 1997, Kitty Keller, dba Big Sky Paramedics (Big Sky), filed an application with the Montana Public Service Commission (Commission) for a Class B Certificate of Public Convenience and Necessity to transport wheelchair passengers between all points and places in Cascade County. This application, if granted, would amend Big Sky's present authority, which limits transportation movements originating and terminating within the city limits of Great Falls, Montana, to the residents of Missouri River Manor.

2. The Commission published notice of the application in the Great Falls Tribune, Great Falls, Montana.

3. On December 23, 1997, the Commission received a protest of the application from Titan Enterprises, Inc., dba Diamond Wheelchair Van (Diamond), which holds Certificate of Public Convenience and Necessity No. 308 Sub D, permitting "nonemergency transportation of handicapped convalescents and wheelchair patients between hospitals, clinics, doctors' and dentists' offices, nursing homes, airports, outpatient therapy, social and recreational functions within the City of Great Falls and between points and places within a 150 mile radius...."

4. The Commission published the Notice of Public Hearing in the Great Falls Tribune. The Commission, through its hearing examiner Commissioner Bob Anderson, conducted the public hearing on the application on March 19, 1998, beginning at 9:00 a.m., in the City Commission Chambers, Civic Center, #2 Park Drive south, Great Falls, Montana.

5. Parties agreed to a simultaneous briefing schedule. Both briefs were duly filed on or before April 20, 1998, and both parties also filed reply briefs.

SUMMARY OF TESTIMONY

Applicant's Witnesses

6. **Kitty Keller Songer**, sole proprietor of Big Sky Paramedics (Big Sky), testified in support of her application. Big Sky owns two wheelchair vans. She testified that the present wheelchair service does not provide service 24 hours a day, seven days a week. Big Sky receives

numerous calls from nursing homes and private parties requesting wheelchair transfers to doctors's offices, to the hospital, and to other places in town. Not having the authority to provide the service, Big Sky informs the callers about Diamond's service. She said that the Big Sky's customers are often on oxygen, and Big Sky has available oxygen in its wheelchair ambulance vans. Under the present authority, Big Sky provides 4 - 9 wheelchair service transfers per day.

7. Ms. Songer testified that she received her present authority to transport for the residents of the Missouri River Manor on November 5th, 1997. She personally receives about two or three calls a week. Some calls come from patients who were discharged from Missouri River Manor and want to continue the service. Ms. Songer stated that Big Sky can provide excellent service 24 hours a day, seven days a week, with Emergency Medical Technicians (EMTs).

8. On cross-examination, Ms. Songer testified that the 1993 Ford listed in the application, licensed with the State as an ambulance, can be used as a wheelchair van, although it does not have a hydraulic lift. The newer vehicle Big Sky purchased has a hydraulic lift, but the other vehicles are ambulances with gurneys that must be removed. She maintained that Big Sky had provided no wheelchair van transport before obtaining authority from the Commission. Big Sky uses its ambulances for emergent and non-emergent transfers, she stated. She admitted that Big Sky is specialized as an ambulance business. With six ambulances and three crews, Big Sky has never turned anybody away or did not have personnel to go on a transfer.

9. **Stephanie Anderson**, community relations coordinator at Park Place Health Care Center, testified in support of the application. She does marketing and public relations and also acts as back-up admissions coordinator. Park Place has 212 residents, 90 percent in wheelchairs. The organization has its own wheelchair van and charges for service to hospitals and people in the community. Park Place's van operates during the weekday business hours. Ms. Anderson testified that it is important to have transportation on the evenings and weekends. Admissions do not occur only during business hours, and Park Place has to pay overtime when it calls its wheelchair transport back. If the driver is on vacation or is sick, then Park Place has to rearrange the whole schedule and has had problems finding transportation. She testified that Diamond has

turned down Park Place's requests for transportation. What Park Place wants is dependable back-up service.

10. Ms. Anderson testified that Park Place charges external customers \$16 per round trip, including transportation to Missouri River Manor and around the community. On cross-examination, she admitted that it is not her job to talk to Diamond about contractual arrangements to provide service or work out problems.

11. Ms. Anderson testified on cross-examination that Park Place's van operates generally 8:00 a.m. to 5:00 p.m. The van is ADA qualified and has a lift. Her concern is evenings and weekends during the times the wheelchair van is full and Diamond is not available. The van can do about 13 transports during the day, and is often booked in advance. She admitted that it was not in her job description to discuss contractual arrangements with Diamond, but to her knowledge no one else at Park Place has talked to Diamond either.

12. **Lindi Bjornson** is a registered nurse for Easter Seal Medicaid Waiver Program and supervising nurse for Accessible Space, Incorporated (Minnesota), with its local service in Great Falls, called Southwinds Estates. Easter Seal has 142 clients under the Medicaid Waiver Program, which includes the elderly and physically disabled. Southwinds Estates has the capacity for 22 placements, of which 13 are under Medicaid. Her organization does not have a van; Diamond transports the residents.

13. In Ms. Bjornson's opinion, Southwinds has many young physically disabled clients who would enjoy a service after 5:00 p.m., such as going to a restaurant or church on Sunday. There are a few residents on oxygen. She testified that her program has a few clients who may have had trouble arranging wheelchair transportation after hours, but not a large number because the Easter Seal case management team has not given its clients the option of 24 hour, seven day a week transportation. The clients have not been aware of this possibility, so it has not been an issue. She did have a few complaints from the elderly wanting to go to church on Sunday. Diamond made a few exceptions to the rule of not transporting the disabled on Sunday, but there were problems with picking them up on time. She testified that her clients have unique transportation needs and require special treatment, including extra assistance in and out of buildings and possibly oxygen. She testified that there have been a few problems with

Diamond. Although Diamond has been cooperative, the problem remains that Diamond is available only 8:00 a.m. to 5:00 p.m., Monday through Friday. As an advocate, she wanted her clients to have a choice in transportation.

14. On cross-examination, Ms. Bjornson testified that most of the wheelchair patients do not need ambulance service and many could probably get into the seat of a car. Most do not need oxygen; in fact, oxygen is required only for acute situations. She was not complaining about Diamond, but rather complaining about the lack of options for evening hours and Sundays, she stated.

15. **Dawn Ayers Price**, Executive Director at Missouri River Manor, testified in support of the application. She is responsible for total operations for both Missouri River Manor and Butte Convalescent Center, licensed for 278 beds and operating at about 92 percent capacity. A large majority of the residents are in wheelchairs. Her organization does not own its own van and has contracted with Big Sky to provide its service, 24 hours a day, seven days a week. She testified that there had been situations when Diamond failed to pick up a resident on time, though it had 24 hour notice, which she understood Diamond required. She estimated that Missouri River Manor has about 700 to 1,000 wheelchair transports in a year. She testified that Big Sky was meeting the Manor's needs at the time of testimony. Diamond provides some service to the Manor under the Great Falls Transit contract, which requires 24 hour notice. Big Sky does not require this notice. After Big Sky got the wheelchair van license to serve the Manor, the problems were mostly resolved.

16. **Mindy Vaughn**, a social worker and case manager for Easter Seal and the Medicaid Waiver Program, testified in support of Big Sky's application. Her organization takes care of 142 residents, about 60 to 70 percent in wheelchairs. Ms. Vaughn is a client advocate, with a master's degree in gerontology. She testified that the aging population needs to have choice and the availability of Big Sky and other companies like it, trained to meet special needs. She said that she had clients who have called to tell her that Diamond could not pick them up, and that previously, when Diamond picked them up, they were late for an appointment.

17. Ms. Vaughn stated that in the past she has had wheelchair clients who were not transported in a wheelchair van. They were taken out of their wheelchairs, placed in a car, and

the wheelchair was loaded in the vehicle. She felt that this treatment was traumatic and tiring for some and that these clients belonged in their chairs. She attested to the need and believed that two companies could provide this service. Because her clients were reconciled to not having available transportation on weekends and evenings, they did not request this service. Ms. Vaughn said that they would jump at the opportunity to go out on weekends and evenings. She said that the Medicaid Program was never informed that there was Saturday transportation available, as intimated in questioning. Medicaid was told that there was no weekend wheelchair transport service. She has had Diamond take people to church on Sunday, but she has more requests than there is available service. Her clients have had special needs, and there have been times when the driver did not escort them in or out of buildings, as needed. She said that Diamond is a "great company," but that there would be a benefit in having an additional company to assist in the load.

Public Witnesses

18. **Todd Beutler**, van driver of Park Place, testified that he provides service to three or four people per day who are not residents of Park Place. The charge is \$16 per round trip and \$12 for a one-way transportation. Sometimes he refers calls to Diamond or to Big Sky. He testified that he believed that Big Sky had provided wheelchair service a couple of times at his request. However, he did not know if the transportation Big Sky provided was wheelchair or ambulance service.

19. **Dave Stuart**, resident at Accessible Spaces, testified that he had no complaints about Diamond. Diamond has picked him up during the day; its drivers are good. Diamond had been good to him personally. His only point was that after 6:00 p.m., while others could get a cab, those who need wheelchair assistance cannot. Before he got his van, he had no transportation after 6:00 p.m. He knew many others who like to be able to go out after 6:00 p.m., and he believes that there is definitely a need for a 24 hour a day service.

20. **Kris Kleinschmidt**, manager at Accessible Space, Incorporated, Southwinds Estates, runs an apartment complex for 24 residents; 75 percent or more are in wheelchairs. He said that they are in need of transportation 24 hours a day, seven days a week. He had no complaints with Diamond. He just wanted the residents to have an opportunity for a social life in

the evening. He testified that he is on the State Independent Living Council appointed by the Governor. The council supports the issue of independent living and social accommodations made available 24 hours a day to this population.

Protestant's Witnesses

21. **Don Schroer**, general manager and supervisor for Diamond Cab and Diamond Wheelchair, testified in opposition to the application. He has been employed by Diamond since it was purchased in October, 1995. He had previous experience working two and one-half years in Las Vegas for the largest transportation company in Nevada. He testified that Diamond is in the business of meeting the transportation needs of Great Falls, including the wheelchair van need, but it cannot operate at a loss. Diamond operates a cab business and has a separate division that handles wheelchairs.

22. Mr. Schroer testified on the operations. Diamond has two different frequencies for the cab and the wheelchair operations, and a dispatcher on duty 24 hours a day who also handles the telephone calls requesting transportation. Everything is dispatched by radio. The cab business operates 24 hours a day. In the wheelchair portion of the business, Diamond has different sources of scheduling, payment and income, including in part Medicaid, the Medicaid Waiver Program run by Easter Seal and a contract with the Great Falls Transit District to carry people who cannot access normal transportation through the bus system. The Transit Program has unique rules which require 24 hour advance reservation and limited hours, but those riding only pay \$1.00, he testified. This notice requirement applies only to the transit plan, but people misunderstand and think they are being denied service when required to give the notice. People must be ready when Diamond goes to pick up someone on the transit plan according to the transit district rules. There are also private pay programs, Vocational Rehab Program, the hospitals, and nursing homes which use Diamond's service.

23. Mr. Schroer described Diamond's equipment. Diamond has four simple vans equipped for wheelchairs with sliding doors on the side, and lowered floors with fold-out ramps to meet ADA requirements. The wheelchairs, once in the vans, are safety-strapped to the floors. The vans have seating for people accompanying the wheelchair rider, or the seating can be

removed to make more room for wheelchairs. These vans are designed only for wheelchair service.

24. Mr. Schroer testified that the drivers have emergency CPR training from Great Falls Emergency Services. The Montana Highway Patrol has conducted driver training programs for all its drivers. There have been no incidents or accidents of any kind involving wheelchair customers. As a requirement for Diamond's participation in the federally funded Great Falls Transit Program, Diamond is a part of the federal drug and alcohol testing program. Diamond's employees have taken the training classes and are randomly drug-tested. The drivers meet all federal requirements, including those of the Americans with Disabilities Act (ADA).

25. For the wheelchair vans, Diamond's hours are from 6:00 a.m. to 6:30 p.m. However, Diamond does pick up some wheelchair passengers at 5:00 a.m. and has taken many home at 7:00 p.m. through as late as 11:00 p.m, Mr. Schroer testified. Although there is no set time for Saturday, Diamond usually provides wheelchair passenger service from 8:00 or 9:00 a.m. to 5:00 or 6:00 p.m. On Sunday Diamond does not provide wheelchair service, in fact discourages it. Diamond has a contract with the Easter Seal Program and under the Medicaid Waiver and has never denied taking anyone to church on Sundays or even in the evenings.

26. Mr. Schroer testified that Diamond would turn down a request to provide service at midnight as a matter of economics. In January, 1997, Diamond reduced the hours of wheelchair operation from 24 hour a day service. For the last five months of 1996 Sunday requests declined to two per month and requests in the evenings to one to four, at most. Diamond ran the risk of not having a regular wheelchair van driver available or having to call one in and pay overtime for these special occasions. His drivers have a life, too, and he was not going to "drag them out of a bar at night . . . or from a family or party . . . to come in a drive a van." With the requests "reduced to almost nothing," it was uneconomic to have drivers available 24 hours a day.

27. Mr. Schroer testified, in response to a comment that wheelchair vans were requisite, that customers would request a cab and say they could just put the wheelchair in the trunk. He said that they made this request because they were on the transit authority hours and could get a ride for just \$1.00, whereas if they wanted the trip outside these hours, it would cost

the full wheelchair van price. It seemed to him that "suddenly" there was no problem with the cab. When wheelchair requests come in after hours, Diamond will say that there is no wheelchair van available, and the passenger will often say that there is no problem with taking the cab. Hospitals have called and said that a wheelchair van is not necessary and that a taxi would suffice. He readily admitted, however, that there have been many occasions of a request for a midnight run from the hospital to home, and Diamond did not have a wheelchair van or driver available.

28. Mr.Schroer responded that 99 percent of the time Diamond's drivers make sure that the wheelchair and passenger are taken inside buildings. However, Diamond has had some people who wanted the driver to escort them through the mall and take them shopping and help them buy their groceries. He said, conversely, that there are wheelchair passengers who are independent and do not want the drivers to take them into the buildings. He testified that Diamond does not carry oxygen because those customers needing it carry their own.

29. On the issue of service to Missouri River Manor, Mr.Schroer stated that Diamond still gets requests from residents and will continue to serve them. After Big Sky obtained its authority to provide contract service to the manor, Diamond's transportations to the manor dropped significantly. He had also been aware that Park Place was providing private van service since Diamond has been in the business, which cuts into his business. Diamond has had customers complain because Diamond's charges are higher than those of Park Place. To the allegations of unfulfilled referrals, he responded that if ten people request service at once, they will have to be scheduled, which happens when Park Place's van is unavailable. If they need a particular time, they should call ahead. However, he said people have been very understanding and willing to reschedule appointments. Those complaining the most are people who want to go to a local bar or the mall right away.

30. Mr. Schroer testified that if the application is granted, he sees a proliferation to the point that it will be very marginal to make money. Diamond would be willing to acquire more equipment if needed, but he thought that four vans more than meet the needs. He believed that Diamond has a good working relationship with the agencies. He said there was a possible misunderstanding on Easter Seal's part. The contract says that Diamond will provide service 24

hours a day, seven days a week, and it does. Diamond has tried to work out some problems resulting from people calling up, requesting service and then changing their minds after Diamond arrived. Diamond brought this problem to the attention of their case manager. He said that Diamond has only ten people on wheelchair service with Medicaid Waiver.

31. On cross-examination, Mr.Schroer testified that Diamond has never had a medical emergency. If it did, he was certain that the CPR trained drivers would respond appropriately. They also have radios in their vans and would immediately call the dispatcher for an ambulance. He agreed that it would be beneficial to have 24 hour, seven day a week wheelchair van service in Cascade County. He said that Diamond has not denied service during business hours, but has tried to change the time. He admitted that Diamond has denied service during non-business hours. Diamond receives \$14 per transport from the Great Falls Transit District and \$10 for all other transports.

32. Mr.Schroer testified, on further cross-examination, that Diamond did about 10,000 wheelchair transportations in 1997 and 10 percent more in 1996. He attributed the decline to Big Sky's authority to transport for Missouri River Manor, in part. Also, some individuals and establishments have obtained their own vans.

33. Mr.Schroer testified that a partial grant of the requested authority to allow Big Sky to provide wheelchair van service from 6:00 p.m. to 6:00 a.m. weekdays and all day Sunday would not harm Diamond's business.

FINDINGS AND DISCUSSION

34. Pursuant to Title 69, Chapter 12, Montana Code Annotated (MCA), the Commission supervises and regulates intrastate motor carrier service. § 69-12-201, MCA. The maintenance of an adequate common carrier motor transportation system has been declared a public purpose. § 69-12-202, MCA. To obtain motor carrier operating authority, a motor carrier must file an application with the Commission, which will give notice of the filing and schedule a hearing upon filing of a protest or a request for a hearing. § 69-12-321, MCA.

35. Section 69-12-323, MCA, sets out the requirements for a Commission decision on an application for a certificate and the evidence presented at hearing. The Commission determines from the evidence whether public convenience and necessity require the proposed service.

The Commission considers existing transportation service; the likelihood of the proposed service being permanent and continuous 12 months of the year; and the effect of the proposed service on other essential transportation service in the affected communities.

36. The Commission interprets § 69-12-323, MCA, as requiring it to address these issues before granting an application for authority:

- a. Is the applicant fit and able to perform the proposed service?
- b. Does the public convenience and necessity require the authorization of the proposed service?
- c. Can and will existing carriers meet the public need for the proposed service?
- d. Would the proposed service have an adverse impact on existing transportation service contrary to the public interest?

Fitness

37. The Commission makes a threshold determination of whether the applicant is fit, willing and able to provide the service, considering these factors: (1) the financial condition of the applicant; (2) the intention of the applicant to perform the service sought; (3) the adequacy of the equipment the applicant has to perform the service; (4) the experience of the applicant in conducting the service sought; and (5) the nature of previous operations, if there are allegations of illegal operations.

38. Ms. Keller Songer testified that Big Sky owns two vehicles it can use as a wheelchair vans. The newer van has a hydraulic lift. The 1993 Ford is licensed as an ambulance, but can be used as a wheelchair van, although it does not have a hydraulic lift. Big Sky's other vehicles are ambulances with gurneys that must be removed. Ms. Keller Songer testified that Big Sky uses its six ambulances with the three crews for both emergencies and non-emergencies.

39. In its foray into the wheelchair van business for Missouri River Manor, Big Sky has been providing four to nine wheelchair van service transfers per day. Big Sky made an important part of its case that it has EMTs on board and can administer oxygen. Big Sky also emphasized that wheelchair service should not be provided if the passenger must leave the chair. Big Sky is primarily an ambulance service with one qualified van with a hydraulic lift, while

Diamond has four wheelchair vans. Nevertheless, the Commission finds that Big Sky is fit and more than willing to provide this service, with the ability to acquire additional equipment. It appears that Big Sky wishes to put its existing equipment to more use.

Public Convenience and Necessity

40. In determining public convenience and necessity, the Commission has traditionally followed the analysis of Pan-American Bus Lines Operation, 1 M.C.C. 190 (1936).

The question in substance is whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines of carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest. 1 M.C.C. 203.

41. The public need to meet in an application for a certificate of public convenience and necessity is shipper need. The particular shipper need to meet in this application is that of the population in Great Falls in wheelchairs needing transportation. Is there unmet need? The community relations coordinator at Park Place Health Care Center testified that it is important to have transportation in the evenings and weekends. Park Place has its own van to transport its residents and provides unauthorized service to non-resident customers at the rate of \$16 per round trip. The van operates from 8:00 a.m to 5:00 p.m., and can do about 13 transportations per day. The Commission does not sanction the unauthorized use of Park Place's van to serve nonresidents. However, the Commission finds that the only unmet need expressed by Park Place's representative is for evening and Sunday wheelchair van transportation service.

42. The testimony of the personnel in the Easter Seal and Medicaid Programs supported a moderate need for transportation in the evenings and on Sundays. Diamond transports the residents of Accessible Space, Incorporated (locally, Southwinds Estates) during its hours of business. The supervising nurse testified that many clients might enjoy a service after 5:00 p.m. She said that not many clients indicated they had trouble obtaining wheelchair transportation after hours, but she surmised that it was because they had not had the option of 24 hour a day service. She had found Diamond cooperative; the problem was that Diamond is only available 8:00 a.m. to 5:00 p.m. Her concerns went only to expanded options. She testified on

cross-examination that some wheelchair patients do not need ambulance service and could get in the seat of a car. The Commission finds, based on the testimony of the Easter Seal Program witnesses, that the public need demonstrated is for evening and Sunday wheelchair van service.

43. The Executive Director of the Missouri River Manor testified that Big Sky is meeting the Manor's needs. The Commission finds that there is no additional need that Big Sky cannot meet, since Big Sky is on call for the Manor 24 hours a day.

44. The one public witness who actually had used wheelchair van service now has his own equipped van. He testified that Diamond had provided good service when he needed it and he had no complaints. His only concern was that there was possibly an unmet need after 6:00 p.m. for wheelchair assistance and service. He knew others similarly situated who wanted to go out after 6:00 p.m.

45. The Commission finds, based on the entire record, that the only need that Big Sky can meet that Diamond has not met, and cannot or will not meet, with its four wheelchair vans, is evening and Sunday wheelchair van service. Diamond was forced to cut back its hours for economic reasons, i.e., lack of requests and the high cost of providing service to those few requesting service. The Commission finds that the record supports approval of a partial grant of the request for the following: the hours of 5:00 p.m. to 6:30 a.m., weekdays through Saturday, and all day Sunday. There was some testimony of a possible need at 5:00 p.m. and the extension to 6:30 a.m. will allow completion of transportation. Since Big Sky is operating 24 hours a day as an ambulance, its service is available and it should be able to meet this need at less cost. The Commission notes that Big Sky has only one vehicle actually qualified with a hydraulic lift, as some of its witnesses indicated was necessary.

Existing Carrier and Adverse Effect

46. Diamond's witness indicated that the illegal service admittedly provided by a number of facilities with vans in Great Falls had made serious in-roads into its wheelchair van service, possibly forcing it to cut back its hours. Diamond's daily service was also affected by the purchase of vans by individuals and residential facilities. However, Mr. Schroer of Diamond agreed that a partial grant of the request to Big Sky would not harm Diamond's operations, since

Diamond no longer provides evening or Sunday service, except on special request. Therefore, the Commission finds that this partial grant will not adversely affect the existing carrier.

Unauthorized Operations

47. During the course of the hearing, there was testimony openly admitting to unauthorized transportation of wheelchair van passengers for hire. The Commission cautions that this activity is illegal and may be subject to investigation and enforcement.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 12, Montana Code Annotated.

2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter pursuant to the Montana Administrative Procedures Act (MAPA) requirements for contested case procedures. §§ 2-4-601 et seq., MCA.

3. An applicant for a certificate of Class B operating authority must show that the public convenience and necessity require the proposed service. § 69-12-323, MCA

4. Applicant is fit to provide the service as requested.

5. Applicant has demonstrated that the public need and convenience requires a partial grant of the proposed service.

ORDER

NOW THEREFORE IT IS ORDERED that partial grant of authority requested in the application of Kitty Keller, dba Big Sky Paramedics, Great Falls, Montana for a Class B Certificate of Public Convenience and Necessity is **GRANTED** as follows:

Class B - Passengers in wheelchair service between all points and places in Cascade County during the hours of 5:00 p.m. to 6:30 a.m., Monday through Saturday, and all day Sunday.

Done and dated this 2nd day of July, 1998.

BOB ANDERSON
Commissioner and Hearings Examiner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: This Proposed Order is a proposal for decision. Each party has the opportunity to file exceptions, present briefs, and have oral argument before the PSC prior to Final Order. See, Section 2-4-621, MCA. Exceptions and briefs must be filed within 20 days of the service date of this Proposed Order. Briefs opposing exceptions must be filed within 10 days thereafter. Oral argument, if requested, must be requested at or prior to the time of briefing. *See*, ARM 38.2.4803 and 38.2.4804.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Proposed Order issued in Docket T-97.113.PCN in the matter of Kitty Keller dba Big Sky Paramedics, Great Falls, Montana has today been sent to all parties listed.

MAILING DATE: July 8, 1998

FOR THE COMMISSION

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